

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JAMES W. MYART, JR.,	§	No. SA:16–CV–455–DAE
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
IVY TAYOR, in her official capacity as	§	
Mayor of the City of San Antonio,	§	
SHERYL SCULLEY, individually and	§	
in her official capacity as City Manager	§	
of the City of San Antonio, WILLIAM	§	
McMANUS, individually and in his	§	
official capacity, ERIK WALSH,	§	
individual and in his official capacity,	§	
MARTHA ZEPEDA, individually and	§	
in her official capacity as city attorney,	§	
OFFICERS RYAN McFARLAND,	§	
ADAM STALKER, MICHAEL	§	
BAGGETT, GILBERT GONZALEZ,	§	
ASHLEA BRUSTER, and GEORGE	§	
MORALES, individually and in their	§	
official capacity, and THE CITY OF	§	
SAN ANTONIO,	§	
	§	
Defendants.	§	

ORDER: (1) DENYING MOTION FOR EMERGENCY HEARING;
(2) DENYING MOTION TO ORDER THE CASE TO MEDIATON

Before the Court is a Motion for an Emergency Hearing and Motion to order the case to Mediation, filed by Plaintiff James W. Myart, Jr. (Dkt. # 4). For the reasons stated below, these motions are **DENIED** (Dkt. # 4).

According to Plaintiff's First Amended Complaint, between February 1, 2015 and April 26, 2016, he was subject to three separate instances of police brutality. ("First Am. Compl.," Dkt. # 5 ¶¶ 22–24, 23(2)¹.) Plaintiff claims he was beaten by police officers in the San Antonio Office of the Magistrate after being arrested on February 1, 2015. (*Id.* ¶ 22.) Second, Plaintiff alleges that he had an incident with Officer George Morales while Plaintiff was jaywalking across a freeway on March 25, 2016. (*Id.* ¶ 23.)² Finally, Plaintiff alleges that on April 26, 2016, he was beaten by seven detention guards in the San Antonio Office of the Magistrate Detention Center. (*Id.* ¶¶ 24, 23(2).) On May 18, 2016, Plaintiff brought suit in this Court against the above-named Defendants, alleging they are liable under 42 U.S.C. § 1983 for various violations of his Fourth, Fifth, and Fourteenth Amendment rights, and claiming additional causes of action for negligence, conspiracy, assault, and official oppression. (Am. Compl. ¶¶ 24(2)–57.)

Plaintiff's instant motion asks this Court to hold a hearing for the purpose of showing video footage of the April 26, 2016 incident at the San

¹ The factual allegations in Mr. Myart's complaint contain two paragraphs bearing the number 23, and two paragraphs bearing the number 24. To avoid confusion, the duplicate paragraphs will be referred to as ¶ 23(2) and ¶ 24(2), respectively.

² Mr. Myart does not include any details about the incident; however, the medical records attached to his Amended Complaint indicate that he was in a wheelchair that was flipped forward by a car. (Am. Compl., Ex. A at 22.)

Antonio Office of the Magistrate Detention Center. (Am. Compl. ¶ 8.) Plaintiff argues that showing the video in open court will encourage the Defendants to settle, which would promote judicial economy. (Id. ¶ 5, 7–9.) Plaintiff also argues that the parties should be compelled to participate in mediation to save the Court’s time. (Id. ¶ 4.)

The Court declines to hold a hearing to ensure that the Defendants view Plaintiff’s video evidence. Plaintiff has already filed a copy of the video with the Court; accordingly, it is part of the record in the case and is available for Defendants to view. Accordingly, Plaintiff’s Motion for an Emergency Hearing is **DENIED** (Dkt. # 4.) Likewise, it is inappropriate for this Court to order the parties to mediation at this stage in litigation, absent a pre-existing contract or other agreement between the parties to compel mediation. Accordingly, Plaintiff’s Motion to Order the Case to Mediation is **DENIED** (Dkt. # 4.)

CONCLUSION

For the reasons stated above, the Court finds that Plaintiff’s Motion for an Emergency Hearing and Motion to Order Mediation should be **DENIED** (Dkt. # 4.)

IT IS SO ORDERED.

DATED: San Antonio, Texas, May 31, 2016.

A handwritten signature in black ink, appearing to read 'David Alan Ezra', is written over a horizontal line.

David Alan Ezra
Senior United States District Judge